

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #7	CCRB Case #: 201903995	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/06/2019 10:00 AM	Location of Incident: [REDACTED]	Precinct: 26	18 Mo. SOL 11/6/2020	EO SOL 6/23/2021	
Date/Time CV Reported Thu, 05/09/2019 12:56 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/09/2019 12:56 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Gabriel Cabral	07427	936269	026 PCT
2. POM Gregory Ulises	15827	958135	026 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Gregory Ulises	Force: Police Officer Gregory Ulises used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Gregory Ulises	Abuse: Police Officer Gregory Ulises forcibly removed § 87(2)(b) [REDACTED] to the hospital	[REDACTED]
C.POM Gabriel Cabral	Abuse: Police Officer Gabriel Cabral forcibly removed § 87(2)(b) [REDACTED] to the hospital	[REDACTED]

### Case Summary

On May 9, 2019, § 87(2)(b) called the CCRB and filed this complaint.

On May 6, 2019, at approximately 10:00 a.m., in the vicinity of § 87(2)(b) in Manhattan, § 87(2)(b) called 911 to report that her neighbors were harassing her. Police Officer Gabriel Cabral and Police Officer Gregory Ulses of the 26<sup>th</sup> Precinct responded to the job. § 87(2)(b) explained to PO Cabral and PO Ulses the ongoing issues she has had with her neighbors and the poor condition of her apartment. After § 87(2)(b) allowed PO Cabral and PO Ulses into her apartment to look at what she was talking about, PO Cabral called for EMS. Approximately one hour later, PO Cabral informed § 87(2)(b) that they were going to take her to the hospital themselves. PO Ulses and PO Cabral transported to § 87(2)(b) to § 87(2)(b) (Allegation A: Abuse of Authority, § 87(2)(g)) (Allegation B: Abuse of authority, § 87(2)(g)). While placing § 87(2)(b) in handcuffs to transport her, PO Ulses allegedly kicked § 87(2)(b) in the back of her leg (Allegation C: Force, § 87(2)(g)).

The investigation obtained the body-worn camera footage from PO Cabral and PO Ulses that captures this incident (Board Review 01) (Board Review 02).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Gabriel Cabral forcibly removed § 87(2)(b) to the hospital.**

**Allegation (B) Abuse of Authority: Police Officer Gregory Ulses forcibly removed § 87(2)(b) to the hospital.**

On May 6, 2019, § 87(2)(b) called 911 to report that her neighbors were harassing her by pouring glass through her ceiling (Board Review 13).

In her CCRB interview on May 6, 2019, § 87(2)(b) (Board Review 03) testified that she has had ongoing issues with NYCHA regarding the poor conditions of her apartment. Her upstairs neighbors have intentionally poured various substances into her apartment via holes in the ceiling. On May 6, 2019, § 87(2)(b) called 911 to report that her neighbors were pouring glass into her apartment. PO Cabral and PO Ulses responded to her call. § 87(2)(b) immediately recognized PO Cabral from two previous encounters when police responded to her apartment for the same issue. § 87(2)(b) informed PO Cabral that her neighbors were harassing her again by pouring glass into her eyes. PO Cabral reminded § 87(2)(b) of what he had told her previously; if he received another call about this same issue, he would take her to have a psych evaluation. § 87(2)(b) invited PO Cabral into her house to see the holes in her bedroom. When he entered her bedroom, PO Cabral told § 87(2)(b) that he did not see anything. They went back to the entrance of her house and PO Cabral called EMS. § 87(2)(b) PO Ulses, and PO Cabral waited for EMS for approximately one hour. During that time PO Cabral asked § 87(2)(b) if she had children and continued to tell her that she was hearing and seeing things that were not there. After waiting for EMS for an hour, PO Cabral informed § 87(2)(b) that he and PO Ulses were going to take her to the hospital themselves. § 87(2)(b) asked the officers if taking her to the hospital was necessary and the officers said yes. PO Ulses and PO Cabral removed § 87(2)(b) to § 87(2)(b).

According to § 87(2)(b)'s medical records from § 87(2)(b), (Board Review 06), § 87(2)(b) was admitted to the § 87(2)(b) at § 87(2)(b) and was discharged § 87(2)(b). The psychiatric evaluation of § 87(2)(b) revealed that although § 87(2)(b) was initially upset about being taken to the hospital against her will, she was fully cooperative with the interview. On assessment, § 87(2)(b) was fixated on the poor conditions of her apartment and neighbors, however, there was no bizarre content or disorganization in her narrative. She did not exhibit any clinical signs of severe depression, acute mania, or overt psychoses. It was determined that she could care for herself and did not represent imminent danger to herself or others. Ultimately, § 87(2)(b) did not meet the criteria for psychiatric hospitalization or further observation and was stable for discharge.

The investigation obtained PO Cabral and PO Ulses' body-worn-camera footage, both of which captured the incident (Board Review 01) (Board Review 02). The footage captures a prolonged conversation between § 87(2)(b) and the officers about her going to the hospital. In PO Ulses BWC at 11:54 a.m. via the timestamp, PO Cabral tells § 87(2)(b) that he wants her to see a doctor. § 87(2)(b) tells PO Cabral that he cannot do that because she is not acting irrational. PO Cabral responds, "The fact that you are calling us for the same reasons, reasons that do not exist, is irrational. I told you not to call us for that." Between 11:57 a.m. and 11:58 a.m., § 87(2)(b) calls her mother on the phone and says, "They're [the officers] saying that because I called 911 I need my head examined." Between 12:06 p.m. and 12:17 p.m., PO Ulses explains to § 87(2)(b) that the substances she sees coming from her ceiling could be a result of the ongoing construction on the roof. § 87(2)(b) appears calm and continues to have a rational conversation with PO Ulses about how her apartment issues fall within NYCHA's jurisdiction. PO Ulses suggests that § 87(2)(b) speak with her community board, § 87(2)(b) agrees and thanks PO Ulses for talking it through with her. She stated that a lot of the time stuff like this does not make sense to her, but that a conversation like this one is really helpful and clears things up. Towards the end of PO Ulses' BWC, from 12:34 p.m. to when § 87(2)(b) is escorted out of her building (12:43 p.m.), PO Cabral tells § 87(2)(b) that EMS is taking too long and that he and PO Ulses are going to take her to the hospital. § 87(2)(b) asks if EMS can come to her instead because she does not want to go to the hospital. § 87(2)(b) states that she is having a housing problem not a mental break down. PO Cabral remains insistent that she go to the hospital. Before placing her into handcuffs, PO Cabral says that he does not need to handcuff her because she is, "Not under arrest, not a violent person, because you're [she] is calm, nice, and understanding." § 87(2)(b) responds, "So then what is the problem?" § 87(2)(b) is then handcuffed and escorted out of her apartment.

PO Ulses (Board Review 04) testified that he and PO Cabral have responded to § 87(2)(b)'s residence more than five times in 2019. § 87(2)(b) calls 911 to report that her neighbors are harassing her. PO Ulses described § 87(2)(b) as paranoid although none of the previous encounters resulted in her removal to the hospital. On May 6, 2019, § 87(2)(b) explained that her neighbors drilled holes into her ceiling and were harassing her again. The officers asked § 87(2)(b) if they could see the holes and she let them into her apartment. PO Ulses did not see any holes. The officers informed § 87(2)(b) that they were going to call EMS and have her evaluated. PO Ulses stated that there was not a specific action or statement made by § 87(2)(b) that contributed to their decision to call EMS. For approximately 40 minutes, the officers and § 87(2)(b) waited for EMS to arrive. During this time, PO Ulses explained to § 87(2)(b) that her issue was with NYCHA and that the NYPD could not do anything about it. § 87(2)(b) appeared to have moments of clarity but

would then revert to obsessing over her neighbors who she alleged were harassing her. After waiting for the ambulance for almost an hour, the officers decided to call Sergeant Attardo who approved their request to transport § 87(2)(b) to the hospital themselves. PO Ulses did not fear for his safety at any point, however, he stated that could see the potential for the situation to escalate because § 87(2)(b) was insistent that she not go to the hospital. § 87(2)(b) did not pose a specific threat to herself or others but felt as though she could.

PO Cabral's (Board Review 05) testimony was generally consistent regarding his previous interactions with § 87(2)(b) as well as the one on May 6, 2019. § 87(2)(b) informed PO Cabral that her neighbors were constantly threatening her. PO Cabral looked for evidence of what she was alleging (as he had during their previous interactions) and told her that what she was talking about did not exist. § 87(2)(b) appeared to be more persistent and aggressive than she was during their previous encounters; she was unable to accept and understand that what she was seeing (the holes in her ceiling) were not there. PO Cabral made the decision to call EMS because he thought it would be unsafe to leave § 87(2)(b) alone as she was concerned and fearful for her own safety. After waiting an hour for EMS, PO Cabral called Sergeant Attardo and obtained his approval to transport § 87(2)(b) to the hospital themselves. PO Cabral informed § 87(2)(b) that he and PO Ulses were going to take her and they escorted her out of her apartment.

NYPD Patrol Guide Procedure 221-13 defines an emotionally disturbed person as someone who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. If officers have determined that the EDP needs medical attention, they are required to have the EDP removed to the hospital in an ambulance (Board Review 07).

The body-worn-camera footage showed that § 87(2)(b) tells the officers repeatedly that she does not want to go to the hospital. During the 40 minutes of waiting for EMS, § 87(2)(b) complains about the conditions of her apartment and the officers repeatedly tell her that they do not see what she is complaining about. § 87(2)(g)

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**Allegation (C) Force: Police Officer Gregory Ulses used force against § 87(2)(b)**

§ 87(2)(b) (Board Review 03) testified that herself, PO Cabral, and PO Ulses waited in her hallway for EMS to arrive for approximately one hour. After an hour of waiting, PO Cabral informed § 87(2)(b) that they were they were going to take her to the hospital themselves. § 87(2)(b) asked if it was necessary for her to go and the officers said yes because she was seeing

things that were not there. PO Ulses took § 87(2)(b)'s phone and PO Cabral grabbed § 87(2)(b)'s wrist to place her into handcuffs. PO Ulses grabbed § 87(2)(b)'s right arm and kicked her in the back of her leg. § 87(2)(b) was placed into handcuffs and walked her out of her apartment into the hallway.

The investigation obtained PO Ulses' body-worn camera, which captured his entire interaction with § 87(2)(b) (Board Review 02). A Snagit clip was produced to show the context of the allegation as described (Board Review 06). During the three-minute Snagit clip, PO Cabral and PO Ulses inform § 87(2)(b) that she will be placed into handcuffs. PO Cabral and PO Ulses stand on either side of § 87(2)(b) and put her hands behind her back. § 87(2)(b) continuously yells that her shoulders are in pain and at the 12:37 p.m. timestamp she can be heard saying, "Ow, my foot." PO Ulses BWC does not capture the lower portion of his or § 87(2)(b)'s body.

PO Ulses (Board Review 04) testified that after waiting an hour for EMS, PO Cabral and himself called Sergeant Attardo who approved their request to transport § 87(2)(b) to the hospital themselves. PO Ulses and PO Cabral stood on either side of § 87(2)(b) and placed her in two sets of handcuffs. While they were handcuffing her, § 87(2)(b) went limp-she was not physically resisting but she did not want to be handcuffed. PO Ulses denied kicking § 87(2)(b) in the back of the leg while putting her into handcuffs or at any point nor did he see PO Cabral do so.

PO Cabral's (Board Review 05) statement was generally consistent with PO Ulses'. After their Sergeant approved their request to transport § 87(2)(b) to the hospital, PO Cabral informed § 87(2)(b) that they were going to take her and that she was going to be handcuffed. As § 87(2)(b) pulled her arms away from the officers, PO Cabral and PO Ulses moved her hands behind her back and placed her into two sets of handcuffs. PO Cabral did not see PO Ulses kick § 87(2)(b) in the back of her leg at any point.

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been party (Board Review 10).
- PO Cabral has been a member-of-service for 14 years and has been a subject in two prior CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- PO Ulses has been a member-of-service for four years and this is the first CCRB complaint to which he has been a subject.

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint
- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- As of September 10, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 12).

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Squad No.: 7

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date